



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

AGENDA

TUESDAY, OCTOBER 3, 2017

455 EAST CALAVERAS BOULEVARD, MILPITAS, CA

6:00 P.M. (CLOSED SESSION)

7:00 P.M. (PUBLIC BUSINESS)

SUMMARY OF CONTENTS

- I. CALL TO ORDER by Mayor and ROLL CALL by City Clerk**
- II. ADJOURN TO CLOSED SESSION (6:00 PM)**
 - (a) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**
Pursuant to California Government Code Section 54957.6
City Negotiator: Tina Murphy
Employee Group: Milpitas Employees Association
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
 - (b) PUBLIC EMPLOYEE APPOINTMENT/HIRING**
Pursuant to California Government Code Section 54957
Title of position to be filled: City Manager
 - (c) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**
Pursuant to California Government Code Section 54956.9(d)(1)
Tom Williams v. City of Milpitas, et al. - Santa Clara County Superior Court Case No. 17CV309235
 - (d) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**
Pursuant to California Government Code Section 54956.9(d)(1)
First Amendment Coalition v. City of Milpitas – Santa Clara County Superior Court Case No. 17CV310994
 - (e) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**
Pursuant to California Government Code Section 54956.9(d)(1)
Tom Williams v. City of Milpitas, et al. - American Arbitration Case No. 01-17-0003-5823
- III. CLOSED SESSION ANNOUNCEMENT:** Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote or abstention of each member present
- IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- V. INVOCATION (Councilmember Nuñez)**
- VI. PRESENTATIONS**
 - Proclaim October 15 – 21 as Freedom from Workplace Bullies Week
 - Proclaim October as Hispanic Heritage Month
 - Commend participants in Tai Jen Men Academy

VII. PUBLIC FORUM

Those in the audience are invited to address City Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an item not listed on the agenda, no response is required from City staff or the Council and no action can be taken. However, the Council may instruct the City Manager to place the item on a future meeting agenda.

VIII. ANNOUNCEMENTS

IX. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

X. APPROVAL OF [AGENDA](#)

XI. CONSENT CALENDAR (Items with asterisks*)

Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a member of the City Council, member of the audience, or staff requests the Council to remove an item from or be added to the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar. If removed, this item will be discussed in the order in which it appears on the agenda.

- *1. Accept Schedule of Meetings/City Council Calendar for [October 2017](#)**
- *2. Approve City Council Meeting Minutes of September [18](#), [19](#) and [21](#), 2017 (Staff Contact: Mary Lavelle, 408-586-3001)**
- *3. Receive Update of the Odor Control Report (Staff Contact: Greg Chung, 408-586-3355)**
- *4. Accept Donations for the Veterans Car Show and Veterans Appreciation Lunch and Appropriate Funds to Recreation and Community Services Special Events Operating Budget for Purchase of Event Supplies (Staff Contact: Dale Flunoy, 408-586-3228)**
- *5. Approve Request from Milpitas Community Education Foundation for a Donation of \$500 (Staff Contact: Mary Lavelle, 408-586-3001)**
- *6. Appropriate \$4,300 from the Recreation Community Concert Band Holding Account to Recreation and Community Services Performing Arts Operating Budget (Staff Contact: Dale Flunoy, 408-586-3228)**
- *7. Accept a National Recreation and Park Association and California Arthritis Partnership Program Grant in the Amount of \$2,500 for a "Walk with Ease" Program at the Barbara Lee Senior Center and Appropriate Funds to the Senior Center Operating Budget (Staff Contact: John Macon, 408-586-3226)**
- *8. Adopt a Resolution Approving the Site Development Permit for Construction of a 1,072 square foot Carport with Rooftop Solar Photovoltaic System, Adjacent to an Existing Bungalow and Residence in the Hillside at 430 Evans Road (Staff Contact: Lillian Hua, 408-586-3073)**
- *9. Adopt a Resolution Amending the City's Classification Plan to Re-Assign Police Support Services Manager to Unrepresented and Adjust Salary Range (Staff Contact: Tina Murphy, 408-586-3086)**
- *10. Adopt a Resolution Amending the Capital Improvement Program 2017-18 Budget for the Street Resurfacing Project 2018 to Incorporate a List of Projects funded by SB 1: The Road Repair and Accountability Act (Staff Contact: Steve Chan, 408-586-3324)**

- *11. Approve Amendment No. 1 to the Agreement with SCS Engineers to Extend the Term of the Agreement for On-Call Environmental Engineering and Testing Services for Various Capital Improvement Projects (Staff Contact: Steve Erickson, 408-586-3301)**
- *12. Approve and Authorize the City Manager to Execute Consultant Services Agreement with RMC Water and Environment for Support on the Bay Area Rapid Transit Project, CIP No. 4265 and Montague Expressway Widening Project, CIP No. 4179 (Staff Contact: Steve Chan, 408-586-3324)**
- *13. Approve and Authorize the City Manager to Execute Amendment No. 1 to the Common Interest, Privilege and Confidentiality Agreement with Tributary Agencies of San José/ Santa Clara Regional Wastewater Facility (Staff Contact: Nina Hawk, 408-586-2603)**
- *14. Receive a Report on Emergency Repair of Technology Drive and Authorize Payment of Invoices Up to \$750,000 for Project No. 4287 (Staff Contact: Nina Hawk, 408-586-2603 and Greg Chung, 408-586-3355)**

XII. PUBLIC HEARING

- 15. Continue Public Hearing and Take All Necessary Actions for Approval Including Adoption of Addendum to Transit Area Specific Plan, Amendments to the General Plan, Transit Area Specific Plan, and Zoning Map for 551 Lundy Place, 1992 Tarob Court, 2001 Tarob Court and 675 Trade Zone Boulevard, and Approval of Vesting Tentative Map, Site Development Permit, and Conditional Use Permit for 1992 Tarob Court (Staff Contact: Sarah Fleming, 408-586-3278)**

XIII. UNFINISHED BUSINESS

- 16. Receive Report on City-wide Classification and Compensation Study (Staff Contact: Tina Murphy, 408-586-3086)**
- 17. Consider Adopting a Resolution Approving a Censure Policy for the City Council (Staff Contact: Christopher Diaz, 408-586-3040)**
- 18. Receive Staff Report on City Budget Process (Staff Contact: Will Fuentes, 408-586-3111)**
- 19. Receive Report and Consider Introduction of Ordinance No. 289.1 Amending Chapter 2 and Chapter 4 of Title I of the Municipal Code to Relating to Purchasing and Contract Authority (Staff Contact: Will Fuentes, 408-586-3111)**
- 20. Review List for City Council of Items Due Back for Response from City Staff (Staff Contacts: Steve Pangelinan, 408-586-3051 and Mary Lavelle, 408-586-3001)**

XIV. REPORTS

- 21. Per Request of Mayor, Consider Approving More than 4 Hours of Staff to Return to Council with a Comprehensive Homeless Strategy (Contact: Mayor Tran, 408-586-3029)**
- 22. Per Request of Councilmember Barbadillo, Update Discussion on the City's Inclusionary Housing Mandate and Housing Impact Fees (Contact: Councilmember Barbadillo, 408-586-3024)**
- 23. Approve Sister Cities Commission FY 2017-18 Work Plan (Staff Contact: Leslie Stobbe, 408-586-3352)**

XV. RESOLUTIONS

24. **Receive Updated Information Responding to Council Input and Consider Adopting a Resolution to Amend the By-Laws of the Milpitas Planning Commission, and Discuss City of Milpitas Commissions and Process for Commission Appointments (Staff Contact: Steve Pangelinan, 408-586-3050)**
25. **Ratify Adoption of a Resolution: (1) Appointing Steve Pangelinan as Interim City Manager Pursuant to Government Code Sections 7522.56 and 21221(h), and (2) Approving Agreement for Temporary Employment; and Approve First Amendment to Agreement for Temporary Employment (Staff Contact: Tina Murphy, 408-586-3086; Christopher Diaz, 408-586-3040)**

XVI. REPORTS OF MAYOR & COUNCILMEMBERS – from the assigned Commissions, Committees and Agencies

XVII. ADJOURNMENT

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review.

For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035

e-mail: cdiaz@ci.milpitas.ca.gov / Phone: 408-586-3040

The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website www.ci.milpitas.ca.gov by selecting the Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on the City website.

All City Council agendas and related materials can be viewed online here:
www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO SERVE ON A CITY COMMISSION

Current vacancies on: Arts Commission
Bicycle Pedestrian Advisory Commission
Community Advisory Commission
Economic Development Commission
Emergency Preparedness Commission
Library Commission
Parks, Recreation & Cultural Resources Commission
Recycling & Source Reduction Advisory Commission
Sister Cities Commission
Telecommunications Commission
Youth Advisory Commission

Commission application forms are available online at www.ci.milpitas.ca.gov or at Milpitas City Hall.
Contact the City Clerk's office at 408-586-3003 for more information.

For assistance in the following languages, you may call:

Đối với Việt Nam, gọi 408-586-3122

Para sa mga Tagalog, tawagan 408-586-3051

对中国人来说，请用 408-586-3263

Para español, llame 408-586-3232

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at 408-586-3001 or send an e-mail to mlavelle@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the City Council Chambers for all meetings.

AGENDA REPORTS

XI. CONSENT CALENDAR

***3. Receive Update of the Odor Control Report (Staff Contact: Greg Chung, 408-586-3355)**

Background: From August 11 through September 7, 2017, the Bay Area Air Quality Management District (BAAQMD) forwarded 101 complaints originating in Milpitas. 55 complaints identified a garbage odor, 4 complaints identified a sewage odor, 41 complaints did not identify an odor source and 1 identified multiple sources. As of the last Council update, the City's odor reporting website has received 6 reported complaints.

Recommendation: Receive the monthly update of the odor control report.

Attachment: None

***4. Accept Donations for the Veterans Car Show and Veterans Appreciation Lunch and Appropriate Funds to Recreation and Community Services Special Events Operating Budget for Purchase of Event Supplies (Staff Contact: Dale Flunoy, 408-586-3228)**

Background: The Veterans Commission holds its annual Veterans Car Show each October and Veterans Appreciation Lunch in November. Commissioners solicit donations to cover the costs of event supplies and materials. Financial donations and sponsorships are used toward event essentials such as decorations, marketing, print media, entertainment, food and prizes. If additional donations are received in excess of the explicit event costs, those donations will be saved and used for future Car Show and Appreciation Lunch events.

Fiscal Impact: None. Between the allocation from the City Council budget and other donations towards the veterans' events, there will be no impact to the operating budget.

Recommendation: Accept financial donations to the City's Veterans Commission for the Veterans Car Show on October 16 and the Veterans Appreciation Lunch on November 18, and appropriate the funds received into the Recreation Special Events operating budget.

Attachment: [Budget Change Form \(BCF\)](#)

***5. Approve Request from Milpitas Community Educational Endowment for a Donation of \$500 (Staff Contact: Mary Lavelle, 408-586-3001)**

Background: On September 21, 2017, the City Clerk received a "Donation or Fee Waiver/Reduction Request Application Form" from the Milpitas Community Educational Endowment, a non-profit organization in Milpitas. This group, along with Vivo of San Jose, plans to hold a "Mid-Autumn Festival Tet Trung Thu" on Saturday, October 7 at Randall Elementary School with free admission, open to the public from 3:00 to 8:00 pm. The Foundation is seeking funds for support from the City of Milpitas, and submitted its IRS non-profit determination letter.

Fiscal Impact: \$25,800 was approved and included in the FY 2017-18 City budget for City Council's Unallocated Community Promotions. If the \$500 donation request is approved along with another request on this agenda, then \$19,236.23 would be the remaining balance.

Recommendation: Consider the request from the Milpitas Community Educational Foundation and move to approve a \$500 donation to the non-profit group for its Mid-Autumn Festival on October 7, 2017.

Attachments:

[a\) Donation request application + IRS letter + event flyer](#)

[b\) City Council Unallocated Community Promotions budget balance](#)

- *6. Appropriate \$4,300 from the Recreation Community Concert Band Holding Account to Recreation and Community Services Performing Arts Operating Budget (Staff Contact: Dale Flunoy, 408-586-3228)**

Background: The Milpitas Community Concert Band holds fundraisers year round to offset costs for new instruments and music, above and beyond its program budget. Staff is requesting to transfer \$4,300 from the Community Concert Band Holding Account to go into the Performing Arts Operating Budget to purchase two new timpanis, replacing the two that have aged and are no longer usable.

Fiscal Impact: None. Appropriate funds from the Community Concert Band Holding Account to the Recreation and Community Services Performing Arts operating budget to replace two timpanis.

Recommendation: Appropriate \$4,300 from the Recreation Community Concert Band Holding Account to the Performing Arts operating budget.

Attachment: [Budget Change Form](#)

- *7. Accept a National Recreation and Park Association and California Arthritis Partnership Program Grant in the Amount of \$2,500 for a “Walk with Ease” Program at the Barbara Lee Senior Center and Appropriate Funds to the Senior Center Operating Budget (Staff Contact: John Macon, 408-586-3226)**

Background: Recreation and Community Services applied for and was awarded a grant in the amount of \$2,500 from the California Arthritis Partnership Program and the National Recreation and Park Association (NRPA) to establish a “Walk with Ease” program at the Barbara Lee Senior Center. This grant will fund the start-up and participation of Senior Center members in a comprehensive fitness and educational program aimed at countering the effects of arthritis and other chronic joint pain/disease. This program will be led by the Senior Center’s on-site Certified Personal Trainer and will be offered as three separate 6-week sessions, serving approximately 60-75 members total.

Grant funds will be used for the services of the Senior Center’s Certified Personal Trainer/ Instructor and to purchase booklets that the participants will utilize to monitor their respective fitness goals and also as an instructional tool to become better educated on how to positively mitigate the effects of arthritis and other joint-related diseases.

Fiscal Impact: The grant will be accepted and the Council needs to appropriate the \$2,500 to the Senior Center operating budget.

Recommendation: Accept the grant from the California Arthritis Partnership Program and National Recreation and Park Association in the amount of \$2,500 and appropriate the same to the Barbara Lee Senior Center’s operating budget.

Attachment: [Budget Change Form](#)

- *8. Adopt a Resolution Approving the Site Development Permit for Construction of a 1,072 square foot Carport with Rooftop Solar Photovoltaic System, Adjacent to an Existing Bungalow and Residence in the Hillside at 430 Evans Road (Staff Contact: Lillian Hua, 408-586-3073)**

Background: The City received an application to construct a 1,072 square foot carport with rooftop solar photovoltaic system, adjacent to an existing bungalow and residence in the hillside. The project site is a developed 5.1 acre parcel located along Evans Road. The property is zoned as R1-H in the Hillside Combining District and the General Plan designation is Hillside Very Low Density.

The Planning Commission unanimously recommended approval of the Site Development Permit for the project on August 23, 2017. Commissioners determined the project is consistent with the policies and guiding principles identified in the General Plan, and satisfies the requirements specified in the Zoning Ordinance. The project's architectural design and site planning is aesthetically compatible with the neighboring homes. The project meets the development standards set forth by the Zoning Code and incorporates earth tone colors, complementing the surrounding color palette.

Environmental: A categorical exemption pursuant to Section 15303(e) of the CEQA Guidelines – New Construction or Conversion of Small Structures, has been applied to this project. Section 15303(e) includes, but limited to, the construction of accessory structures including garages, carports, patios, swimming pools, and fences. The project's proposed new construction of a carport with a rooftop solar photovoltaic system are within a residentially zoned area.

Fiscal Impact: None.

Recommendation: Adopt a resolution approving Site Development Permit No. SD17-0009 to construct a new carport with rooftop solar photovoltaic system on a 5.1 acre site located at 430 Evans Road.

Attachments:

- [a\) Resolution](#)
- [b\) Planning Commission Meeting Minutes 8/23/2017](#)
- [c\) Planning Commission Staff Report 8/23/2017](#)
- [d\) Project Plans](#)
- [e\) Milpitas Fire Department Memorandum 6/12/2017](#)

- *9. Adopt a Resolution Amending the City's Classification Plan to Re-Assign Police Support Services Manager to Unrepresented and Adjust Salary Range (Staff Contact: Tina Murphy, 408-586-3086)**

Background: Amendments to the Classification Plan are periodically required to account for organizational changes and changes in job responsibilities. The proposed amendment reflects the following change. The classification of Police Support Services Manager was approved in the Fiscal Year 2017-2018 Operating Budget. This classification was originally assigned to the Mid-Management and Confidential Unit ("Mid-Con") with an annual salary of \$104,237 - \$138,983.

The job description for Police Support Services Manager was recently finalized and job duties indicate that this position would be best served as an unrepresented position. The Police Support Services Manager classification will be assigned to oversee the 9-1-1 Communications Center and Records Unit at the Milpitas Police Department, which includes 24.5 positions. The classification has administrative and management oversight of employees

in the Communications Center and Records Unit, and will prepare and monitor the operating budget for these two sections of the Police Department.

Fiscal Impact: The recommended annual salary range for the position of Police Support Services Manager is \$112,500 - \$157,500. Increasing the salary range to the proposed amount will result in an increase of \$18,517 for FY 2017-18. No change to the funding for this position will be needed since the increase can be covered by salary savings from the position not filled for the full fiscal year.

Recommendation: Adopt a resolution amending the Classification Plan to re-assign the Police Support Services Manager from the Mid-Con bargaining unit to the Unrepresented Employees group and adjust the annual salary range for Police Support Services Manager to \$112,500 - \$157,500.

Attachment: [Resolution + Exhibit \(job classification\)](#)

***10. Adopt a Resolution Amending the Capital Improvement Program 2017-18 Budget for the Street Resurfacing Project 2018 to Incorporate a List of Projects funded by SB 1: The Road Repair and Accountability Act (Staff Contact: Steve Chan, 408-586-3324)**

Background: Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the Legislature and Signed into law by the Governor in April 2017 in order to address the significant multi-modal transportation funding shortfalls statewide. SB 1 is anticipated to generate approximately \$1.5 billion annual in Road Maintenance and Rehabilitation Account (RMRA). The distribution of RMRA fund to local jurisdictions for road maintenance is based on pollution. City of Milpitas is anticipated to receive an estimated \$426,000 of RMRA fund in fiscal year 2017-18.

SB 1 includes accountability and transparency provisions that will ensure the residents of our City are aware of the projects proposed for funding in our community and which projects have been completed each fiscal year.

City of Milpitas must include a list of all projects proposed to receive funding from the Road Maintenance and Rehabilitation Account (RMRA), created by SB 1, in the City budget, which must include a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement.

This resolution amends the Street Resurfacing 2018 Project to incorporate the eligible project streets to be funded by SB1 and constructed in 2018: Roadway rehabilitation of streets bounded by Milpitas Boulevard, I680, Jacklin Road, and Yosemite Drive. The estimated useful life of these improvements is between 10 to 15 years.

California Environmental Quality Act: The project is categorically exempt under Section 15301 of the California Environmental Quality Act guidelines for maintenance of existing facilities.

Alternative: If this resolution is not adopted, the City would not be eligible for FY 2017-18 RMRA fund.

Fiscal Impact: None.

Recommendation: Adopt a resolution amending the Capital improvement Program 2017-18 budget for the Street Resurfacing Project 2018 to incorporate a list of projects funded by Senate Bill 1: the Road Repair and Accountability Act.

Attachment: [Resolution](#)

***11. Approve Amendment No. 1 to the Agreement with SCS Engineers to Extend the Term of the Agreement for On-Call Environmental Engineering and Testing Services for Various Capital Improvement Projects (Staff Contact: Steve Erickson, 408-586-3301)**

Background: On October 7, 2014, the City entered into a consultant agreement with SCS Engineers in the amount of \$250,000 to provide on-call environmental engineering and testing services for various capital improvement projects. Services provided include sampling and testing of soil, air and groundwater to verify if those contain contamination or hazardous substances, and to provide recommendation for clean-up and disposal. SCS also provides routine site assessments, and geotechnical review as required to assist staff with the design and construction of various Capital Improvement Projects such as the sports center synthetic turf sports field, and for repair of roadway damage due to wet subgrade. Of the original \$250,000 base contract, \$43,593 has been spent to date, leaving \$206,407 remaining for additional on-call services. Therefore, no additional funding is requested.

Staff recommends the SCS Engineers agreement be extended for an additional term of two years from October 7, 2017 to October 7, 2019 to allow SCS to continue providing on-call services to the City. Amendment No. 1 to the Agreement with SCS Engineers is proposed for these additional services.

Fiscal Impact: Amendment No. 1 is to extend the term of the agreement only and no additional funding is requested.

Recommendation: Approve Amendment No. 1 to the Agreement with SCS Engineers to extend the term of the Agreement for On-Call Environmental Engineering Services for various Capital Improvement Program projects from October 7, 2017 to October 7, 2019.

Attachment: [Amendment No. 1](#)

***12. Approve and Authorize the City Manager to Execute Consultant Services Agreement with RMC Water and Environment for Support on the Bay Area Rapid Transit Project, CIP No. 4265 and Montague Expressway Widening Project, CIP No. 4179 (Staff Contact: Steve Chan, 408-586-3324)**

Background: Santa Clara Valley Transportation Authority (VTA) continues to move forward on the construction of the BART Extension and Montague Expressway Widening projects. RMC Water and Environment had provided water and sewer utility installation and relocation design review for the City during the design stages of these projects. Water and sewer engineering support services are needed to complete the construction and project close-out phases of these projects. Since RMC Water and Environment is familiar with the project scopes, they are most suited to provide the needed water and sewer engineering services to complete these projects.

The proposed RMC Water and Environment consultant services agreement has a total not-to-exceed sum of \$10,000 and agreement term to December 31, 2018.

California Environmental Quality Act: The action is not considered a project under CEQA as there will be no direct, or reasonably foreseeable indirect physical change in the environment.

Alternative: If this agreement is not approved, staff will not be available to provide support to projects which will impact construction and inspection of City infrastructure.

Fiscal Impact: None. There are sufficient funds in the project budgets. The City's Master Agreement with VTA allows reimbursement of City consultant costs for BART extension support services.

Recommendation: Approve and authorize the City Manager to execute Consultant Services Agreement with RMC Water and Environment for support on the Bay Area Rapid Transit Project, CIP No. 4265 and Montague Expressway Widening Project, CIP No. 4179.

Attachment: [Agreement with RMC](#)

***13. Approve and Authorize the City Manager to Execute Amendment No. 1 to the Common Interest, Privilege and Confidentiality Agreement with Tributary Agencies of San José/ Santa Clara Regional Wastewater Facility (Staff Contact: Nina Hawk, 408-586-2603)**

Background: The City of Milpitas currently discharges its wastewater effluent from the City owned and operated collection system to the San José/Santa Clara Regional Wastewater Facility ("RWF"). The City of San José is the majority owner of the RWF, the City of Santa Clara is a minority owner, with the following tributary agencies: West Valley Sanitation District, Burbank Sanitary District, Cupertino Sanitary District, County Sanitation District 2-3 and City of Milpitas ("Tributary Agencies").

The RWF requires significant rehabilitation totaling \$2.2 billion over a 20 year period which is captured in a formal planning document known as the Plant Master Plan. To satisfy the Plant Master Plan, significant financial contributions from City of San José, City of Santa Clara and the Tributary Agencies are required. Milpitas is required to pay its fair share, which based on preliminary information provided by the City of San José, will fluctuate over the 20 year period. Three financing vehicles are being considered by the RWF including long term financing (e.g. Bonds), SRF (state revolving fund) loans, and short term financing (e.g. commercial paper). It is evident given these significant contributions, the City will need to consider these financing vehicles as a means to provide for rate stabilization and inter-generational rate equity among its sewer ratepayers. City of Santa Clara and the Tributary Agencies have been asked to confirm their participation in these financing vehicles so that City of San José can develop Master Agreement Amendments. The City has potential to finance with City of San José, independently or externally with other parties.

On August 11, 2015, City Council authorized the City Manager to enter into a Common Interest, Privilege and Confidentiality Agreement with the Tributary Agencies. City Council authorized litigation against the RWF on September 11, 2017. The proposed amendment updates the terms of the agreement to address the pending litigation as well as to make minor changes to the wording of the current agreement. The Agreement will allow the Parties to exchange legal information and advice regarding the RWF without the risk of waiving or diminishing any applicable privileges or protections. The Amendment No. 1 is currently being brought forward to respective governing bodies for approval during the month of October 2017.

Fiscal Impact: There is no fiscal impact associated with this Agreement amendment.

Recommendation: Approve Amendment No. 1 to the Common Interest, Privilege and Confidentiality Agreement with West Valley Sanitation District, Cupertino Sanitary District, County Sanitation District 2-3 and Burbank Sanitary District of the San José/Santa Clara Regional Wastewater Facility and direct the City Manager to execute the amendment in a form approved by the City Attorney.

Attachment: None

- *14. Receive a Report on Emergency Repair of Technology Drive and Authorize Payment of Invoices Up to \$750,000 for Project No. 4287 (Staff Contact: Nina Hawk, 408-586-2603 and Greg Chung, 408-586-3355)**

Background: Pursuant to state public contracting law and City Council Resolution No. 7779, the Director of Public Works may authorize emergency work, but must provide the City Council with a report of all such activities. Per these requirements, the Public Works Director has authorized staff to hire professional consultants and contractors as required to complete repair of the roadway sinkhole on Technology Drive.

Staff recently conducted a field inspection of Technology Drive and found a significant pavement failure/sink hole near the driveway of No. 1 Technology Drive. The pavement failure is severe and has created elevation changes between 6 and 8 inches in depth, impacting nearly $\frac{3}{4}$ of the roadway width. This area of the City is prone to road failures due to underlying soil conditions and a high groundwater table. Temporary traffic controls and signage have been placed to detour traffic around the worst part of the failure. This repair qualifies for the emergency work authorization due to the severe nature of the road failure.

The estimated repair could be as high as \$750,000 depending on what is found under the asphalt pavement. A subsurface geotechnical investigation will be required to evaluate the conditions underlying the roadway. The Engineering Department will complete the repair in phases with phase one being the completion of a geotechnical review to determine the cause of the problems and to develop recommendations for repair. Phase two will involve hiring a general contractor to complete the roadway and pavement repair. It is estimated the roadway may require excavation to a depth of up to 10 feet in order to stabilize the subsurface prior to the replacement of the asphalt surface including concrete curb, gutter, sidewalk, and driveway apron. Staff will return to Council with a report detailing the results of geotechnical evaluation and the contractor's final cost to repair Technology Drive.

Fiscal Impact: None

Recommendation: Receive this report of emergency repair of Technology Drive, Project No. 4287 and authorize payment of invoices up to \$750,000 for this work.

Attachment: None

XII. PUBLIC HEARING

- 15. Continue Public Hearing and Take All Necessary Actions for Approval Including Adoption of Addendum to Transit Area Specific Plan, Amendments to the General Plan, Transit Area Specific Plan, and Zoning Map for 551 Lundy Place, 1992 Tarob Court, 2001 Tarob Court and 675 Trade Zone Boulevard, and Approval of Vesting Tentative Map, Site Development Permit, and Conditional Use Permit for 1992 Tarob Court (Staff Contact: Sarah Fleming, 408-586-3278)**

Background: On June 3, 2008, the City Council adopted the Transit Area Specific Plan (TASP), which was predicated on the future development of mix of transit-oriented uses. The proposed project is within the Trade Zone/Montague Sub-District of the TASP.

As a part of the development of the TASP a comprehensive real estate analysis was conducted to analyze existing land uses and develop future land use projections over a 20-year timeframe. Very little future demand was anticipated for industrial/R&D space, thus resulting in the vast majority of the industrial land in the TASP area being rezoned for other uses (TASP Section 2.3, page 2-18). One exception to this change in TASP-area land uses is located along Lundy Place, along the City's border with San José. While the City's overall aim within the TASP is to "...transform an older industrial area into a vibrant, high-intensity,

transit-oriented district” (TASP Section 1.1, page 1-1), the TASP called for preservation of four industrial parcels in this area, all with property lines adjacent to Lundy Place.

In the fall of 2015, The True Life Companies (TTLC) submitted a development application for the 1980 Tarob Court site, a 59-unit residential townhome project, which was subsequently heard by the Milpitas Planning Commission on August 10, 2016, and approved by City Council on September 20, 2016. TTLC had an interest in purchasing the directly adjacent 1992 Tarob Court property for a similar type of townhome development, contingent on its ability to receive approval to rezone the site from an industrial to residential land use.

On November 18, 2015, the Planning Commission conducted a study session on this topic (Agenda Item X-I). Commissioners discussed the various potential land use scenarios, and Commissioners were generally in favor of the possibility of a future land use modification for the site. Staff recommended that, should the land use designation for 1992 Tarob Court be converted to residential, the same action should also be taken for the remaining and nearby three industrial parcels of 551 Lundy Place, 2001 Tarob Court, and 675 Trade Zone Boulevard. Consistency among the four sites would reduce any future conflicts between residential and industrial uses in this area of Milpitas.

In December of 2016, The True Life Companies submitted an application for the above-referenced land use designation changes for these four parcels, as well as subsequent and related site development applications to develop the 1992 Tarob Court site with 53 town home-style condominium units.

These applications were heard by the Planning Commission on August 9, 2017. Per adopted Planning Commission Resolution 17-026, Commissioners voted 5-0 to recommend City Council approval of the above applications, contingent on relocation of three guest parking spaces to the project site (originally proposed to be on Lundy Place), and the development of the Lundy Place frontage of 1992 Tarob Court as a ‘Local Street’ per TASP Figure 5-9. The plans before Council reflect these changes. The plans as proposed to the Planning Commission will also be available at the Council’s public hearing.

The project was presented at the September 19, 2017 City Council hearing where the public hearing was opened, closed and the Council discussed the project at length. Several Council members indicated that they’d like to continue the item to a future meeting to allow them additional time to review the request. The public hearing was then re-opened and the item continued to the October 3 hearing date in order to avoid re-noticing the scheduled hearing.

Fiscal Impact: A Fiscal Impact Study was conducted to assess the impact of the requested land use designation changes and related development project within the Transit Area Specific Plan (TASP). The study acknowledged the elimination of 141,800 sq. ft. of prime industrial space by the transit area and the loss of 144 professional jobs across the four properties, resulting in a city-wide jobs/housing balance reduction. In 2007, an Environmental Impact Report (EIR) was prepared for the adoption of the TASP and was predicated on a maximum build-out scenario of 7,109 housing units and 993,843 of office/ industrial buildings. The demolition of the existing buildings and rezone will reduce 7.5 acres of land area for office space and the inventory of current industrial spaces in the TASP area. The study, however, states that there will be 1,200 temporary construction jobs created due to the construction of the housing project.

The study also analyzed the addition of TASP fees, property taxes, and Community Facilities District (CFD) fees that would result from the requested land use designation changes, finding that approval of the above applications would result in a net positive impact to the city of approximately \$300,000/year across the four sites. The proposed residential development at 1992 Tarob would contribute a net \$74,000 of this amount. Projects across the four sites would also be subject to one-time affordable housing fees, parkland fees and

public art fees which are not included in this number and not previously anticipated in TASP. Across the four sites, a total of \$6.8 million in one-time fees paid to the above-referenced funds could be realized, as well as additional community benefit payments that might be negotiated as a part of each site's future development proposal requests.

This project is directly adjacent to townhome developments on Tarob Court and across the street from a City of San José industrial park on Lundy Place. This project is also located minutes away from the BART station. Conversion of these lands would result in an additional loss of industrial land and displacement of the existing businesses. It also further reduces the chance of recruiting new companies to the transit hub. For these reasons, should Council choose to approve the recommended actions, staff requests direction to conduct a city-wide analysis on the history of the impact from land conversions and zoning amendments in commercial and industrial areas on employment, and the related overall fiscal impacts to the City.

Recommendations:

1. Open the public hearing for comments, and move to close the hearing following all speakers.
2. Adopt City Council Resolution adopting the Addendum to the Transit Area Specific Plan Environmental Impact Report.
3. Adopt City Council Resolution approving the General Plan Amendment and the Transit Area Specific Plan Amendment.
4. Direct staff to provide a study session on history of employment and land conversions and the fiscal impacts in Milpitas.
5. Following a reading of the title aloud by the City Attorney, move to waive the first reading beyond the title of Ordinance No. 38.830 for zoning map changes.
6. Move to introduce Ordinance No. 38.830.
7. Adopt City Council Resolution approving the Vesting Tentative Map, Site Development Permit, and Conditional Use Permit.

Attachments:

- [a\) Resolution approving addendum to EIR](#)
- [b\) Resolution approving General Plan Amendment and Specific Plan Amendments](#)
- [c\) Ordinance No. 38.830 for introduction \(zone change\)](#)
- [d\) Resolution approving Tentative Map, Site Dev. Permit and Conditional Use Permit](#)
- [e\) Project Plans](#)
- [f\) Planning Commission staff report 8/09/2017](#)
- [g\) Fiscal and Economic Impact Analysis of Tarob Court Master Plan](#)
- [h\) Planning Commission Resolution 17-026](#)
- [i\) Planning Commission Meeting Minutes 8/09/2017](#)

XIII. UNFINISHED BUSINESS

- 16. Receive Report on City-wide Classification and Compensation Study (Staff Contact: Tina Murphy, 408-586-3086)**

Background: In August, the Human Resources Director provided an update on a comprehensive City-wide Classification and Compensation study that is underway to evaluate all non-sworn positions in the City. Consultants from Ralph Andersen and Associates will present a comprehensive overview of the study at the Council meeting and will be available to answer questions.

Fiscal Impact: None

Recommendation: Receive report from staff and consultants on the City-wide Classification and Compensation Study and provide direction, as appropriate.

Attachment: None

17. Consider Adopting a Resolution Approving a Censure Policy for the City Council (Staff Contact: Christopher Diaz, 408-586-3040)

Background: On August 1, 2017, City Council considered the proposed resolution for a censure policy; however, no vote was taken, after the motion made received no second at that meeting. Councilmember Nuñez requests City Council to reconsider the proposed resolution for a vote at this meeting.

Censure is defined as the “formal resolution of a legislative, administrative or other body reprimanding a person, normally one of its own members, for specified conduct.” (Black’s Law Dictionary.) Public censure of a City Councilmember is generally done in the form of a resolution of reproach that is adopted by the City Council and then read to the members of the public in attendance at that City Council meeting. The resolution of reproach thus becomes a public record of the City.

Notice of an intent to censure and an opportunity for the Councilmember to respond is recommended to protect the reputational interests of the Councilmember. The City Council must make supported factual findings before censuring a Councilmember. (*Braun v. City of Taft* (1984) 154 Cal. App. 3d 332, 348.) In addition, the California Attorney General has issued a written opinion concluding that complaints against elected officials may not be discussed in closed session. (61 Ops. Cal. Atty. Gen. 10 (1978).) Therefore, if the City Council wishes to censure one of its members, the City Council should adopt a resolution containing findings as to why the City Council believes a censure is appropriate for consideration in open session.

It should also be noted that the Brown Act protects a member’s public criticism of policies, procedures, programs or services of the agency or acts or omissions of the legislative body. (See Gov. Code §54954.3(c).) Accordingly, a member cannot be reprimanded or censured for expressing his or her opinions regarding City policy or conduct.

In Milpitas, there are no rules or policies concerning the authority or procedures to follow when censuring members of the City Council. The policy in the proposed resolution, if adopted by Council, would provide such a procedure while meeting the legal requirements described above.

Fiscal Impact: None.

Recommendation: Adopt a resolution approving a censure policy for the Milpitas City Council.

Attachment: [Resolution with Exhibit \(censure policy\)](#)

18. Receive Staff Report on City Budget Process (Staff Contact: Will Fuentes, 408-586-3111)

Background: On August 28, 2017, the City Council Finance Subcommittee met with City staff to discuss the budget process and ideas for increasing Council and public input into that process. A copy of the meeting agenda is provided in the Council’s agenda packet. Proposed ideas for increasing Council and public input into the budget process are discussed in this report. More detailed discussions regarding budget policy, such as use of potential annual operating surpluses, will occur in future reports. As a note, the City is still closing its accounting records for the prior fiscal year and staff tentatively plans to present the Fiscal Year (FY) 2016-17 unaudited financial report on October 17, 2017. Since the exact amount

of a potential General Fund operating surplus for last fiscal year would be known then, it will allow for a more meaningful policy discussion regarding use of current and future potential operating surpluses.

The focus of this report is on the budget process. During the last budget preparation cycle for FY 2017-18, City Council had limited input into the process until April, May and June 2017, when a number of Capital Improvement Program (CIP) and Operating Budget community meetings, study sessions, and public hearings occurred. By this point, the budget was largely developed and significant changes were not possible; lest risk not adopting a budget by June 30. The City's fiscal year starts July 1 and a public agency may not spend funds without the legal authorization to do so. Council adoption of the budget legally authorizes those funds.

Thus, staff proposes several changes to the FY 2018-19 budget process which will increase Council and public input and allow staff to receive necessary direction prior to budget development. These changes are listed in staff recommended order of occurrence:

- ***Budget Education Workshop*** (November 2017) - Several members of City Council are new to the City of Milpitas or to city government. Since accounting and budgeting for city governments is different than that of the private sector or other governmental agency types, a budget education workshop provided by the Director of Financial Services and others is proposed for the benefit of Council. In this workshop, staff could discuss topics such as best practices for operating and capital budgeting, current City budget guidelines and fiscal policies, discretionary vs. non-discretionary funding, 5-year General Fund projections, methods for community engagement and a draft budget process calendar. A half-day workshop on November 4, 2017 is recommended, but the length and date could be modified based upon Council needs and availability.
- ***Increased Community Engagement*** (December 2017 – January 2018) - The second recommended change is to increase public input through use of both online tools and community meetings. In regards to online tools, there are several available externally and these can be used to poll a wide cross-section of Milpitas residents and businesses. An online poll could also be provided by internal City Information Services (IS), but it will be dependent upon current workload and the ability to provide demographic data, restrict polling to only Milpitas residents and businesses, and properly monitor submitted comments. If utilizing external resources is warranted, staff will come back to Council at a later date to discuss costs and a recommended choice. Online polling is recommended to occur in December and January.

In regards to community meetings, the City held several in the past and such meetings should still play a vital role in budget preparation. However, community meetings garnered limited participation and were not held early enough in the last budget process to make a meaningful impact. Thus, staff recommends that the first community meetings be held in December and January concurrent to online polling discussed above. So as to ensure success and participation by all appropriate interest groups, staff not only suggests that the meetings be publicized in traditional print and electronic mediums, but also that individual invitations be sent to as many business, faith, school, and community leaders as possible. While the first community meetings could be held in December or January, staff recommends that other community meetings, study sessions, and public hearings continue to be held in April and May. This will allow staff and all departments time to develop the budget based upon Council and public input received prior and present high quality draft CIP and Operating Budget documents for consideration and possible modification.

- ***Facilitator Led Budgetary Strategic Planning*** (late January or early February 2018)
- The third recommended change is to hold an all-day facilitator led Budgetary Strategic Planning session with the City Council and Senior Management Team in late January or early February 2018; dependent on Council, staff, and facilitator availability. Staff reached out to several potential facilitators recommended by other cities, but not all are available due to current workload. Nevertheless, one facilitator is potentially available and staff likes the facilitator's recommended approach. This facilitator could also assist in the planning and facilitation of community budget workshops discussed previously. Therefore, the facilitator is preparing a proposal which will provide a detailed description of approach and costs.

City staff acknowledges the existing City of Milpitas Strategic Plan adopted in 2015. City Council may choose to review that plan and/or build upon that plan. Staff's desired facilitator recommends that approach. Alternately, Council may begin anew to create a new document.

As of this report date, staff's desired facilitator is proposing a two-step process to Budgetary Strategic Planning. This process could be modified if the desired facilitator is ultimately not available and another facilitator is chosen. If another facilitator that uses a different methodology is chosen, staff will provide an update to Council. Staff will work to secure a facilitator that offers a similar methodology; unless Council directs staff otherwise.

The first step in the tentatively proposed Budgetary Strategic Planning process will be to individually interview each member of the City Council and the Senior Management Team so as to determine the areas deemed most important to ensure the future success of the City. These pre-planning interviews could occur over one day or over several days prior to the Budgetary Strategic Planning session and will help the Council, staff and facilitator in developing an agenda for the second step in the process. The second step in the tentatively proposed process will be to hold an all-day facilitator led Budgetary Strategic Planning session. It is again recommended that this occur in late January or early February 2018. Staff had previously discussed holding this session prior to community engagement. However, after looking at best practices used in other agencies and talking to various facilitators, it is recommended that this session occur after community engagement. This will allow for the community to have a more meaningful voice in the process and sufficient time for pre-planning activities prior to the session so as to ensure success.

- ***Monthly Status Updates*** - The fourth and final recommended change is for the Director of Financial Services to provide monthly updates to the City Council during the internal development stage of the budget, which normally occur January through April. These monthly updates will focus on new projects and programs being proposed by departments, potential changes in base revenue and expenditure projections, and any other items which impact the budget. This will allow the Council and public to provide continuous input during budget development and for staff to adjust course more quickly based upon that input. Thus, by the time the CIP and Operating Budget are scheduled to be adopted in May, they will encapsulate and represent as much Council and public input as possible.

Fiscal Impact: None

Recommendation: Per request of Council, receive staff report on the City's budget process and provide further feedback and recommendations.

Attachments: [Council Finance Subcommittee agenda + meeting minutes of 8/28/2017](#)

19. Receive Report and Consider Introduction of Ordinance No. 289.1 Amending Chapter 2 and Chapter 4 of Title I of the Municipal Code to Relating to Purchasing and Contract Authority (Staff Contact: Will Fuentes, 408-586-3111)

Background: At the August 1 City Council meeting, staff presented a report concerning City Manager Contract Authority. Findings of that staff report and presentation are summarized:

- Current City Manager Contract Authority is set at \$100,000 maximum per Chapter 4 (Contract Authority) of Title I of the Milpitas Municipal Code.
- To improve operational efficiency, limit was changed from \$20,000 on June 2, 2015 (Ordinance No. 289).
- Regular reporting was scheduled to occur after change, but has not occurred yet.
- 174 contracts, totaling \$5.6 million and averaging \$32,000 each, were approved last 3 Fiscal Years under City Manager authority.
- 72 of 174 or 41% of contracts were above prior \$20,000 limit.
- A survey of all cities in Santa Clara, San Mateo and Alameda County was performed.
 - Average City Manager Contract Authority of \$59,000 or \$1.23 per capita in San Francisco Bay Area.
 - Average City Manager Contract Authority of \$63,000 or \$1.21 per capita in San Santa Clara County.
 - Gilroy, Santa Clara, Sunnyvale, Burlingame, San Mateo, Fremont, and Livermore are all similar to Milpitas at \$100,000 total.
 - Cupertino is highest at \$175,000.
 - If Milpitas' population of 75,410 is multiplied by average per capita of \$1.23, it would equal a City Manager Contract Authority of \$93,000.

Additional considerations not discussed during the August 1 presentation:

- 140 contracts, totaling \$4.4 million and averaging \$31,000 have been approved since City Manager Contract Authority was increased to \$100,000 June 2, 2015.
- Reporting was not mandated by Ordinance No. 289. Nevertheless, it was planned and discussed during Ordinance adoption.

As a result of the August 1 presentation, Council requested several options for regular reporting on City Manager approved contracts and potentially modifying the level of City Manager Contract Authority.

Reporting

In regards to reporting, Councilmember Nuñez requested that contracts be brought forth to Council for ratification in the next regularly scheduled Council meeting immediately following City Manager approval. Staff does not recommend this approach since it would effectively be lowering City Manager Contract Authority to \$0. The purpose of Council delegating a level of Contract Authority to the City Manager is so that the City Manager, in his or her assigned role of Chief Executive Officer for the organization, can use his or her managerial judgement to execute and legally enter into contracts without the need for additional approval or delay. This is standard practice in both the public and private sector to insure operational efficiency, with the only deviation being level of authority.

Nevertheless, transparency is very important and staff recommends regular monthly reporting to the Finance Sub-Committee of all contracts approved under City Manager Contract Authority during the prior month. This would be for review purposes only and to ask questions of staff on particular contracts of interest. Contracts that warranted additional review would be sent to the full body of the City Council at the next available meeting. Contracts could then be terminated by Council after additional review and inquiry, but only if the contracts in question a) violated federal, state, or local statutes or codes, b) presented a

conflict of interest for City staff requesting contract and/or City Manager approving contract, or c) were to engage a vendor that has previously been found guilty of violating federal, state, or local statutes or codes as it relates to public or private sector procurement. These new requirements shall be detailed and added to Title 1 of the Milpitas Municipal Code as Section 5 (Reporting on Contract Authority of the City Manager) by Ordinance No 289.1.

Level of City Manager Contract Authority

On a per capita basis, Milpitas is very similar to other public agencies in terms of City Manager Contract Authority. Again, if Milpitas' population of 75,410 were multiplied by the average Bay Area City Manager Contract Authority of \$1.23 per capita, it would equal a City Manager Contract Authority of \$93,000. At \$100,000, the current level of City Manager Contract Authority is within an acceptable level of deviation and staff does not recommend lowering it at this time since operational efficiency would be diminished.

Nevertheless, if it is the desire of Council to modify the level of City Manager Contract Authority, Ordinance No. 289.1 (attached) will be revised to reflect whatever level is chosen. Whether the level of City Manager Contract Authority is kept the same or modified by Council, the City should also revise other sections of its Municipal Code which are out of alignment with Chapter 4 (Contract Authority) of Title I or don't reflect current practices as it relates to eProcurement and Cooperative Purchasing Agreements. These sections are detailed in the redlined version of Ordinance No. 289.1.

Fiscal Impact: None

Recommendations:

1. Receive staff report on City Manager Contract Authority.
2. If desired, direct the City Attorney to read the title of Ordinance No. 298.1.
3. Move to waive first reading beyond the title and introduce Ordinance No. 289.1 with the level of City Manager Contract Authority to remain the same or modified as directed by Council.

Attachment: [Draft Ordinance No. 289.1](#)

- 20. Review List for City Council of Items Due Back for Response from City Staff (Staff Contacts: Steve Pangelinan, 408-586-3051 and Mary Lavelle, 408-586-3001)**

Recommendation: review list (in agenda packet) and provide additional input on the draft document, prepared by City Clerk for the Council.

Attachment: [List of Items Requested by City Council](#)

XIV. REPORTS

- 21. Per Request of Mayor, Consider Approving More than 4 Hours of Staff to Return to Council with a Comprehensive Homeless Strategy (Contact: Mayor Tran, 408-586-3029)**

Recommendation: Consider Mayor's request and if desired, approve more than four hours of staff time toward a plan for a comprehensive homeless strategy for City of Milpitas.

Attachment: None

22. **Per Request of Councilmember Barbadillo, Update Discussion on the City's Inclusionary Housing Mandate and Housing Impact Fees (Contact: Councilmember Barbadillo, 408-586-3024)**

Recommendation: Councilmember Barbadillo requested to discuss the topic of affordable housing with his colleagues.

Attachment: None

23. **Approve Sister Cities Commission FY 2017-18 Work Plan (Staff Contact: Leslie Stobbe, 408-586-3352)**

Background: The Sister Cities Commission (SCC) was established by City Council on May 21, 1996 and serves as an advisory group to the Council on matters affecting current and potential sister city relationships, programs and activities. Fiscal Year 2016-17 accomplishments include:

1. Conducted Dagupan, P.I. visit of 16 students and 8 adults October 10–14, 2016.
2. Conducted third successful year of the ePal Project with the Milpitas High School's Digital Business Academy.
3. Researched outreach options to raise community awareness about Sister Cities.

The FY 2017-18 Sister Cities Work Plan identifies the Commission's goals for this year:

1. Conduct community awareness campaign using social and local print media.
2. Establish relationship with the new administration at Milpitas High School.
3. Host City of Dagupan student and officials' delegation September 16–24, 2017.
4. Host Huizhou Municipality delegation of officials (to be determined).
5. Continue research of a potential sister city in Latin America.
6. Continue research of a potential sister city in India.
7. Continue ePal Project between Milpitas High School, Digital Business Academy and sister city students.

Milpitas Sister Cities are:

- Tsukuba, Japan since May 1996
- Dagupan, Philippines since April 15, 2003
- Huizhou, China since April 28, 2004

Fiscal Impact: None. SCC has an annual budget of \$6,240 from City Council's Community Promotions Allocated Budget to support sister city activities and purchase of ceremonial gifts.

Recommendation: Approve the Sister Cities Commission's Fiscal Year 2017-18 Work Plan.

Attachment: [FY 2017-18 Work Plan](#)

XV. RESOLUTIONS

24. **Receive Updated Information Responding to Council Input and Consider Adopting a Resolution to Amend the By-Laws of the Milpitas Planning Commission, and Discuss City of Milpitas Commissions and Process for Commission Appointments (Staff Contact: Steve Pangelinan, 408-586-3050)**

Background: Per request of the Milpitas Planning Commission in September 2016 to consider potential amendments to its rules and regulations, staff worked with Planning Commissioners to clean up existing language and draft a revised version of the by-laws.

On August 1, 2017, the Planning Commission's recommendations were discussed by the Milpitas City Council. Council directed to staff to bring forward a Resolution to effectuate the proposed by-law amendments. Council is requested to adopt a resolution approving all amendments to the by-laws. Included in the agenda packet are copies of the Planning Commission by-laws showing all tracked changes and a final revised version.

In addition, Councilmembers have expressed an interest to discuss the 14 Council-appointed City of Milpitas Commissions, and the process for appointing residents to those bodies.

Recommendation:

- 1) If desired, adopt a resolution approving the updated By-Laws of the Milpitas Planning Commission.
- 2) Discuss City Commissions and process of appointments. Direct staff, as requested.

Attachments:

- [a\) Resolution + Exhibit \(final copy of PC By-Laws\)](#)
- [b\) Red-lined edition of Planning Commission By-Laws](#)

25. **Ratify Adoption of a Resolution: (1) Appointing Steve Pangelinan as Interim City Manager Pursuant to Government Code Sections 7522.56 and 21221(h), and (2) Approving Agreement for Temporary Employment; and Approve First Amendment to Agreement for Temporary Employment (Staff Contact: Tina Murphy, 408-586-3086; Christopher Diaz, 408-586-3040)**

Background:

The City Manager resigned effective September 15, 2017. Prior to his retirement on December 30, 2016, Steve Pangelinan served as the City's Chief of Police. As a retiree, he has served as Acting City Manager under the authority of Government Code Section 21224 and currently serves as Interim Chief of Police under the authority of Government Code Section 21221(h). Mr. Pangelinan resigned from his position as Acting City Manager concurrently with the resignation of the City Manager.

After recruitment for a permanent appointment to the City Manager position was opened, the Council formally appointed Mr. Pangelinan as Interim City Manager pursuant to Government Code Section 21221(h) on September 21, 2017 to perform specific duties of the City Manager position until a permanent appointment to the vacant position is made unless earlier terminated. His hours for both the Interim Chief of Police position and the Interim City Manager position will not exceed 960 hours combined per fiscal year. The foregoing limitation will also include the hours he performed as Acting City Manager from July 1, 2017 through the date of his resignation on September 15, 2017. In addition to the appointment of Mr. Pangelinan as Interim City Manager, the Council also approved an Agreement for Temporary Employment which was restated to include the duties of the Interim City Manager appointment ("Agreement").

Although the Council adopted a resolution appointing Mr. Pangelinan as Interim City Manager and approved the Agreement at a special meeting on September 21, 2017, the City Attorney's office is recommending that the Council ratify the appointment and the adoption of the Agreement at a regular meeting.

Out of an abundance of caution, the \$115.38 hourly rate approved by Council as compensation for Mr. Pangelinan's services as Interim Chief of Police and Interim City Manager was the hourly equivalent of the rate of compensation for the Chief of Police position as set forth in the City's publicly available pay schedule which is lower than the hourly rate for the City Manager position. However, after further discussions with CalPERS, it was determined that Mr. Pangelinan must be paid two separate hourly rates. The \$115.38 hourly rate will apply to his services as Interim Chief of Police and a higher hourly rate, equal to the hourly equivalent of

the rate of compensation for the City Manager position as set forth in the City's publicly available pay schedule, will apply to his services as Interim City Manager. Accordingly, an amendment to the Agreement has been prepared for Council approval.

Fiscal Impact: Mr. Pangelinan will be paid an hourly rate of \$115.38 per hour for his services as Interim Chief of Police. For the time Mr. Pangelinan is serving as the Interim City Manager, retroactive to September 21, 2017, he will be paid an hourly rate of \$123.83, consistent with the salary for the City Manager position as noted in the City's publicly available schedule. This change is required to comply with Section 21221(h) of the Government Code. Mr. Pangelinan will not be entitled to any benefits, vacation or holidays.

Recommendation:

1. Ratify adoption of resolution appointing Steve Pangelinan as interim City Manager pursuant to Government Code Sections 7522.56 and 21221(h) and approving the agreement for temporary employment.
2. Approve First Amendment to Agreement for Temporary Employment.

Attachments:

[a\) Resolution](#)

[b\) Agreement for Temporary Employment](#)

[c\) First Amendment to Agreement](#)

XVI. REPORTS OF MAYOR & COUNCILMEMBERS – from the assigned Commissions, Committees and Agencies

XVII. ADJOURNMENT

NEXT REGULAR CITY COUNCIL MEETING
TUESDAY, OCTBER 17, 2017

SPECIAL CITY COUNCIL MEETING
WEDNESDAY, OCTOBER 18, 2017